

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AUBREY LEE CHRISTIAN (#722265),

Plaintiff,

CASE NO. 2:13-CV-13931
JUDGE STEPHEN J. MURPHY, III
MAGISTRATE JUDGE ANTHONY P. PATTI

v.

DANIEL L. DUCATT,
KENNETH JORDAN,
JOSHUA SCHAD,
RICHARD D. RUSSELL,
MARY BERGHUIS,
PATRICIA LAMB,
DORENE J. SMITH and
JOHN/JANE DOES(S),

Defendants.

ORDER (1) DIRECTING THE CLERK OF THE COURT TO SUBSTITUTE CERTAIN JOHN/JANE DOE DEFENDANTS; (2) GRANTING IN PART PLAINTIFF'S AUGUST 15, 2014 MOTION REQUESTING ORDER TO DIRECT U.S. MARSHALS SERVICE TO EFFECT SERVICE (DE 35); and (3) GRANTING IN PART PLAINTIFF'S JANUARY 5, 2015 MOTION WITH NOTIFICATION OF ALTERNATIVE ADDRESS FOR SERVICE W/ REQUEST FOR U.S. MARSHALS TO EFFECT SERVICE (DE 53)

A. The original complaint names thirteen (13) defendants, five (5) of whom have appeared.

On September 13, 2013, while incarcerated at the MDOC's Lakeland Correctional Facility (LCF), Plaintiff Aubrey Lee Christian filed the instant

verified prisoner civil rights complaint against seven (7) named defendants (Ducatt, Jordan, Schad, Russell, Berghuis, Lamb and Smith) and six (6) John/Jane Does. These defendants are described as located at various MDOC locations, such as the Charles Egeler Reception & Guidance Center (RGC), the Gus Harrison Correctional Facility (ARF), the Earnest C. Brooks Correctional Facility (LRF), the Lakeland Correctional Facility (LCF) and headquarters. *See* Doc. Ent. 1 ¶¶ 8-20.

Along with his complaint, Plaintiff filed a motion (DE 2) for leave to proceed in forma pauperis. On December 13, 2013, the Court entered orders waiving prepayment of the filing fee and directing payment of the initial partial filing fee and subsequent payments (DE 8), and an order directing service without prepayment of costs and authorizing the U.S. Marshal to collect costs after service is made (DE 9).

On December 16, 2013, the U.S. Marshal acknowledged receipt of documents for service of process upon the seven (7) named defendants. DE 10. Since that time, appearances of counsel have been entered on behalf of Russell (DE 13), Berghuis (DE 14), Schad (DE 18), Lamb (DE 23) and Smith (DE 48).

B. Eight (8) defendants have yet to appear.

On September 10, 2014, this Court entered an order (DE 39, DE 40) addressing motions related to service upon Defendants Ducatt, Jordan and Smith (DE 15, DE 27 and DE 31). Thereafter, as noted above, Smith appeared. DE 48.

Still, it remains that eight (8) defendants have yet to appear: Daniel L. Ducatt and Kenneth Jordan, as well as the various unidentified defendants, some of whom have since been identified as follows: John Doe, M.D., as Anil Prasad, M.D.; Jane Doe, M.D., as Margaret Ouellette, P.A.;¹ John Doe, H.U.M., #2 as Judy Gracik, H.U.M.; John Doe, R.N., as Randy Lindstrom, R.N.; and Jane Doe, R.N., as Donna Croston, R.N. *See* DE 1 at ¶¶ 9, 10, 11, 14, 16, 17; DE 28 at 2 ¶¶ 1(c)-(g), DE 35 ¶¶ 6(a)-(e).²

C. Plaintiff has service related motions pending before the Court.

1. The U.S. Marshal attempted service upon Ducatt and Jordan by mail on December 17, 2013 to Corizon Health's Michigan Regional Office (DE 11) and

¹In the original complaint, this defendant is listed as Jane Doe, P.A. (DE 1 ¶ 14); in the July 15, 2014 motion to amend, she is listed as Jane Doe, M.D., identified as Margaret Ouellette, P.A. (DE 28 at 2 ¶ 1(d); and in the August 15, 2014 service related motion, she is listed as Margaret Ouellette P.A., formerly Jane Doe M.D. (DE 35 ¶ 6(b)).

²On July 15, 2014, Christian filed a motion for leave to file an amended / supplemental complaint (DE 28), which the Court will address under separate cover.

again in September/October 2014 to Corizon Health's Michigan Regional Office (DE 45, DE 46).

2. On August 15, 2014, Plaintiff filed a motion (DE 35) requesting entry of an order directing the U.S. Marshal to effect service upon sixteen (16) defendants, three (3) of whom were named in the original complaint (Ducatt, Jordan and Smith), *see* DE 35 ¶ 5; five (5) of whom had been listed as John or Jane Does in the original complaint but are identified in the proposed first amended complaint (Prasad, Ouellette, Lindstrom, Croston and Gracik), *see* DE 35 ¶ 6(a)-(e); and eight (8) of whom were added in the proposed first amended complaint (MDOC BHCS, MDOC PMC, PHS, Corizon Health, Conklin, Ingraham, Stieve and Parrish), *see* DE 35 ¶ 7(a)-(h).

3. On January 5, 2015, Plaintiff filed a motion (DE 53) in which he seeks assistance with effecting service upon Defendants Ducatt and Jordan. Specifically, he requests that the Court enter an order directing the U.S. Marshal to effect service upon Ducatt and Jordan at the Chapman Law Group, in care of attorneys Ronald W. Chapman and Kimberly A. Koester, and to permit these attorneys to accept service for Ducatt and Jordan.

D. Order

Upon consideration, Plaintiff's August 15, 2014 and January 5, 2015 service related motions (DE 35, DE 53) are GRANTED, but only to the extent these motions seek assistance with effecting service of process upon any of the eight (8) defendants named in the original complaint (DE 1) who have yet to appear.

Accordingly, no later than February 23, 2014, the MDOC SHALL provide the U.S. Marshal with the last known addresses for Daniel L. Ducatt, Kenneth Jordan, Anil Prasad, Judy Gracik, Margaret Ouellette, Donna Croston and Randy Lindstrom in accordance with Administrative Order No. 09-AO-043. Thereafter, the U.S. Marshal SHALL re-attempt service of the summons and complaint upon these defendants at the last known addresses provided by the MDOC.

Alternatively, in the event any of these defendants are not or were not MDOC employees, the MDOC SHALL so inform the Court, in writing, of the entity by which they are or were employed, such as Corizon Health or Prison Health Services.

Moreover, no later than March 2, 2015, Plaintiff SHALL inform the Court, in writing, of the identity of John Doe, H.U.M. #1, who is described in the original complaint as located at ARF (*see* DE 1 ¶ 10).

Additionally, the Clerk of the Court is DIRECTED to adjust the parties of record to reflect that there are only thirteen (13) active defendants: (1) Daniel L.

Ducatt, (2) John Doe, M.D. - Anil Prasad, (3) John Doe, H.U.M. #1, (4) John Doe, H.U.M. #2 - Judy Gracik, (5) Mary Berghuis, (6) Patricia Lamb, (7) Jane Doe, P.A. - Margaret Ouellette, (8) Kenneth Jordan, (9) Jane Doe, R.N. - Donna Croston, (10) John Doe, R.N. - Randy Lindstrom, (11) Dorene J. Smith, (12) Joshua Schad and (13) Richard D. Russell.

Finally, while Plaintiff's January 5, 2015 motion (DE 53) is DENIED to the extent it requests an order directing the U.S. Marshal to effect service upon Ducatt and Jordan at the Chapman Law Group and to allow the Chapman Law Group to accept service for Ducatt and Jordan, this Court DIRECTS the Clerk of the Court to mail a copy of this order upon the Chapman Law Group (c/o Kimberley A. Koester, Esq. and Ronald W. Chapman, Esq., 40950 Woodward Avenue, Suite 120, Bloomfield Hills, MI 48304), which, according to the records of this Court, is currently representing Corizon Health, Inc. in several other matters now pending in this District.³ Absent consent by the Chapman Law Group or a subsequent order of alternative service of process, Plaintiff must still effect service upon Defendants Ducatt and Jordan through the U.S. Marshal by conventional means, as specified in the court rules.

³See, i.e., *Turner v. CMS* (Case No. 2:13-cv-11783-NGE-MJH), *Mitchell v. Badawi* (Case No. 2:14-cv-11346-LPZ-RSW) and *Laporte v. Corizon Health, Inc.* (Case No. 2:14-cv-12231-RHC-MKM).

IT IS SO ORDERED.

Dated: February 13, 2015

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE